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FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

2007 DEC 19 P 2:40

In the Matter of )

MUR 5936 )

TERRIPAC )

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are speculative in nature and are deemed inappropriate for review by the Alternative Dispute Resolution Office ("ADRO") are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing speculative allegations is an inefficient use of Commission resources and warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel has reviewed MUR 5936 and has determined the allegations made by the complainant to be generally de minimis and speculative in nature. In this case, the complainant, June Maxam, alleged various reporting anomalies and illegal disbursements associated with TerriPAC ("Committee"). Specifically, the complainant alleges that the Committee continually reported improper cash on hand totals on its disclosure reports from 2006 through 2007. These inaccurate reports include the Committee's 2006 Year-End Report and 2007 April and July Quarterly Reports. Additionally, the Committee filed its 2007 July Quarterly Report late. The inaccuracies on the Committee's reports are allegedly due to it reporting higher cash on hand balances than it actually had at the time the report was submitted. The complaint also notes that the Reports Analysis Division has made three Requests for Additional Information concerning the Committee's disbursements for fundraising fees, consulting fees, and travel reimbursements,

1 which the Committee has not answered. The complainant questions the purpose of those  
2 disbursements and speculates that since some of those disbursements were made to the same  
3 consultant and his affiliated business entities, the Committee may actually be making  
4 disbursements to benefit the Committee's Chairman, Michael Schiavo, and its Director,  
5 Derek Newton, personally through the use of conduits.

6 In an addendum to the complaint, the complainant states that the Committee failed to  
7 report its receipt of a \$2,200 contribution that Michael Schiavo announced on a website on  
8 March 30, 2007. Moreover, the complainant noted questionable disbursements to the  
9 Committee's director, Derek Newton, and his firms, November Group and On-Time  
10 Fundraisers, at a time when there were allegedly insufficient funds available to make such  
11 payments from the Committee's account. Furthermore, in an amendment to the complaint,  
12 the complainant claims that the Committee reimbursed Mr. Newton's alleged girlfriend,  
13 Danielle Black, for travel expenses she incurred that directly benefited the Jim Davis for  
14 Governor campaign.

15 The Committee responded by claiming that the complaint was nothing more than a  
16 continuation of the harassment it has received from the complainant. Specifically, the  
17 Committee asserts that the complainant has used an on-line newsletter and various  
18 complaints at the state level about the Committee and its leadership in order to harass and  
19 antagonize them as well as gain publicity for the complainant's book entitled, "The Tangled  
20 Web: The Schiavo Case."

21 Ontime Fundraiser Incorporated responded by denying that Derek Newton had any  
22 involvement in the company. Specifically, Mr. Newton did not have any control or decision

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1 making authority. Additionally, Mr. Newton had not received compensation from Onetime  
2 Fundraiser since 2001.

3 Danielle Black acknowledged in her response that she received travel a  
4 reimbursement from the Committee, but denied that it was for the benefit of the Jim Davis  
5 for Governor campaign. Instead, Ms. Black claims that she was reimbursed for a trip she  
6 took to Tampa, Florida in order to evaluate the Committee's database and donor recognition  
7 process (i.e., thank you letters).

8 The reporting allegations essentially involve de minimis reporting discrepancies. The  
9 Reports Analysis Division has indicated that none of the reports at issue involve activity that  
10 would warrant a referral to this Office or the ADRO. In fact, the Committee is currently  
11 seeking permission from the Commission to terminate and there are no unresolved RFAs  
12 that would prevent termination once this complaint is resolved. Finally, the allegations  
13 against the Committee concerning unlawful disbursements are unsubstantiated and  
14 speculative.

15 Thus, in light of the de minimis reporting violations alleged along with the  
16 speculative nature of the allegations concerning the Committee's disbursements, and in  
17 furtherance of the Commission's priorities and resources, relative to other matters pending on  
18 the Enforcement docket, the Office of General Counsel believes that the Commission should  
19 exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S.  
20 821 (1985).

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**RECOMMENDATION**

The Office of General Counsel recommends that the Commission dismiss MUR 5936, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

Thomasenia P. Duncan  
General Counsel

10/17/07  
Date

BY:

Gregory R. Baker  
Special Counsel  
Complaints Examination  
& Legal Administration

Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration

Attachment:  
Narrative in MUR 5936

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4 **MUR 5936**

5  
6 **Complainant:** June Maxam

7  
8 **Respondents:** TerriPAC, and  
9 Brian Schiavo, as Treasurer  
10 Jim Davis for Governor  
11 Danielle Black  
12 On-Time Fundraiser, Inc.  
13 Derek Newton  
14 The November Group  
15 Mark Sasser  
16

17 **Allegations:** The complainant, June Maxam, alleged various reporting anomalies  
18 and illegal disbursements associated with TerriPAC ("Committee"). Specifically, the  
19 complainant alleges that the Committee continually reported improper cash on hand  
20 totals on its disclosure reports from 2006 through 2007. These inaccurate reports include  
21 the Committee's 2006 Year-End Report and 2007 April and July Quarterly Reports.  
22 Additionally, the Committee filed its 2007 July Quarterly Report late. The inaccuracies  
23 on the Committee's reports are allegedly due to it reporting higher cash on hand balances  
24 than it actually had at the time the reports were submitted. The complaint also notes that  
25 the Reports Analysis Division has made three Requests for Additional Information  
26 concerning the Committee's disbursements for fundraising fees, consulting fees, and  
27 travel reimbursements, which the Committee has not answered. The complainant  
28 questions the purpose of those disbursements and speculates that since some of those  
29 disbursements were made to the same consultant and his affiliated business entities, the  
30 Committee may actually be making disbursements to benefit the Committee's Chairman,  
31 Michael Schiavo, and its Director, Derek Newton, personally through the use of conduits.  
32

33 In an addendum to the complaint, the complainant states that the Committee  
34 failed to report the receipt of a \$2,200 contribution that Michael Schiavo announced on a  
35 website on March 30, 2007. Moreover, the complainant noted questionable  
36 disbursements to the committee's director, Derek Newton, and his firms, November  
37 Group and On-Time Fundraisers, at a time when there were allegedly insufficient funds  
38 available to make such payments from the Committee's account. Furthermore, in an  
39 amendment to the complaint, the complainant claims that the Committee reimbursed  
40 Mr. Newton's alleged girlfriend, Danielle Black, for travel expenses she incurred that  
41 directly benefited the Jim Davis for Governor campaign.  
42  
43

1 In summary, the alleged reporting violations are as follows:

- 2
- 3 • 2006 Year End Report reflected \$51,236 cash on hand, while the actual cash on
- 4 hand, based upon the complainant's calculation, should have been approximately
- 5 \$6,600.
- 6 • 2007 April Quarterly Report reflected a cash on hand balance of \$37,067, while
- 7 the actual balance, based upon the complainant's calculation, should have been
- 8 (-)\$7,567.80. Additionally, the Committee failed to report a \$2,200 donation
- 9 from an unidentified woman.
- 10 • 2007 July Quarterly Report reflected receipts totaling \$14,255.33, but the report
- 11 only reflected \$1,831.12 in unitemized contributions and \$2,500 in itemized
- 12 contributions.
- 13

14 **Response:** TerriPAC responded by claiming that the complaint was nothing  
15 more than a continuation of the harassment it has received from the complainant.  
16 Specifically, the Committee asserts that the complainant has used an on-line newsletter  
17 and various complaints at the state level about the Committee and its leadership in order  
18 to harass and antagonize them as well as gain publicity for the complainant's book  
19 entitled, "The Tangled Web: The Schiavo Case."

20  
21 **Ontime Fundraiser Incorporated** responded by denying that Derek Newton had  
22 any recent involvement in the company. Specifically, Mr. Newton did not have any  
23 control or decision making authority at the time the company did work for the  
24 Committee. Additionally, Mr. Newton had not received any compensation from Onetime  
25 Fundraiser since 2001.

26  
27 **Danielle Black** acknowledged in her response that she received travel a  
28 reimbursement from the Committee, but denied that it was for the benefit of the Jim  
29 Davis for Governor campaign. Instead, Ms. Black claims that she was reimbursed for a  
30 trip she took to Tampa, Florida in order to evaluate the Committee's database and donor  
31 recognition process (i.e., thank you letters).

32  
33 **General Counsel's Note:** The Reports Analysis Division ("RAD") was asked to review  
34 the reporting allegations in the complaint and they determined that there were no  
35 outstanding referable issues to either this Office or the ADRO. Additionally, RAD has  
36 indicated that the Committee may terminate once the complaint is resolved.

37  
38 **Date complaint filed:** August 27, 2007

39 **Supplement filed:** September 24, 2007

40 **Amendments filed:** October 1 & 15, 2007

41  
42 **Responses filed:** October 15, 2007 and November 6-9, 2007.